



31 DEC 2007

Benjamin Aaron Adler
ADLER & ASSOCIATES
8011 Candle Lane
Houston TX 77071

In re Application of
MOHAMADZADEH et al.
Application No.: 10/552,153
PCT No.: PCT/US04/10832
Int. Filing Date: 08 April 2004
Priority Date: 09 April 2003
Attorney's Docket No.: D6486
For: DENDRITIC CELL BINDING PROTEINS AND
USES THEREOF

DECISION ON PETITION

UNDER 37 CFR 1.181

This is in response to applicant's "Request for Reconsideration of Petition for Withdrawal of Holding of Abandonment under 37 CFR 1.181(a)" based upon a failure to receive an Office Action filed in the United States Patent and Trademark Office (USPTO) on 02 November 2007 alleging that applicant did not receive the Notification of Missing Requirements mailed on 05 June 2006.

BACKGROUND

A review of the application file reveals that the NOTIFICATION OF MISSING REQUIREMENTS was mailed by the USPTO on 05 June 2006. The notification indicated that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicant was given two months to respond to the Notification or until 05 August 2006 with extensions of time (up to 5 months) available under 37 CFR 1.136(a). No response to the Notification of Missing Requirements was received, and thus, the application is held to be **ABANDONED** as of midnight on 05 January 2007. No Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant.

On 02 July 2007, applicant filed a petition to withdraw the holding of abandonment. On 04 September 2007, a decision dismissing the petition was mailed to applicant indicating that the practitioner did not (1) make the statement attesting that a search of the file jacket and docket records indicated that the Office action was not received and (2) provide the appropriate docket record for establishing nonreceipt of an Office communication.

On 02 November 2007, Petitioner submitted the request for reconsideration.

DISCUSSION

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must

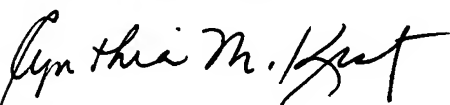
include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Applicant has now satisfied Items (1), (2) and (3) above with the statement that the Notification of Missing Requirements was not received, that a review of the file jacket and docket record book was completed and submission of a copy of the docket record where the non-received Office action would have been entered had it been received (that is, the docket record for 05 August 2006). Counsel has provided his docket record and explanation, showing all responses docketed for the USPTO mail date of 05 August 2006 showing that there was no record of a USPTO mailing for the present application. Thus, applicant has provided the proper showing necessary to withdraw the holding of abandonment and the petition may be properly granted at this time.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 to request to withdraw holding of abandonment is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a new Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, is required.



Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 272-0459